

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CHAKA D. GILBERT.

Petitioner,

V.

COALINGA STATE HOSPITAL.

Respondent

Case No. 5:23-cv-01795-DSF-PD

**ORDER SUMMARILY
DISMISSING PETITION FOR
WRIT OF HABEAS CORPUS
AND DENYING CERTIFICATE
OF APPEALABILITY**

On August 31, 2023, Chaka D. Gilbert (“Petitioner”), a civil detainee housed at Coalinga State Hospital, filed a petition for writ of habeas corpus (“Petition”) pursuant to 28 U.S.C. § 2254. For the reasons stated herein, the Court finds that the Petition should be dismissed.

I. Duty to Screen

Rule 4 of the Rules Governing § 2254 Cases requires the Court to conduct a preliminary review of the Petition. Pursuant to Rule 4, the Court must summarily dismiss a petition “[i]f it plainly appears from the face of the petition . . . that the petitioner is not entitled to relief in the district court.”

Rule 4 of the Rules Governing 2254 Cases: *see also* Local Rule 72-3.2.

1 **II. The Petition Should Be Dismissed**

2 The Court has reviewed the Petition and finds that it is facially
 3 deficient and should be dismissed. As an initial matter, the Petition is
 4 essentially unintelligible, and Petitioner fails to articulate any legal claims for
 5 relief or the factual basis for those claims. Petitioner is civilly committed to
 6 Coalanga State Hospital pursuant to a state court judgment. A petitioner in
 7 custody pursuant to the judgment of a state court may challenge his
 8 confinement “only on the ground that he is in custody in violation of the
 9 Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254; *see*
 10 *also* Rule 1 of the Rules Governing Section 2254 Cases. Petitioner fails to set
 11 forth a constitutional basis for challenging his confinement. Accordingly, he
 12 fails to state a cognizable claim for habeas relief under 28 U.S.C. § 2254.

13 Petitioner has also failed to demonstrate that he has exhausted his
 14 state remedies as to any claim that he is in state custody in violation of
 15 federal law. Federal habeas relief may not be granted unless Petitioner has
 16 exhausted the remedies available in the state courts. 28 U.S.C.
 17 § 2254(b)(1)(A). A petitioner can satisfy the exhaustion requirement by
 18 providing the highest state court with a full and fair opportunity to consider
 19 each claim before presenting it to the federal court. *O'Sullivan v. Boerckel*,
 20 526 U.S. 838, 845 (1999); *Duncan v. Henry*, 513 U.S. 364, 365 (1995); *Picard v.*
 21 *Connor*, 404 U.S. 270, 276 (1971). As a matter of comity, a federal court will
 22 not entertain a habeas corpus petition unless the petitioner has exhausted the
 23 available state judicial remedies on every ground presented in the petition.
 24 *Rose v. Lundy*, 455 U.S. 509, 518-22 (1982). Petitioner has not met his burden
 25 of demonstrating that he has exhausted available state remedies. *See*
 26 *Cartwright v. Cupp*, 650 F.2d 1103, 1104 (9th Cir. 1981).¹

27 ¹ Petitioner has also failed to name a proper respondent. If Petitioner chooses to file
 28 another habeas action in the future, he must name as the respondent the warden or
 administrator of the facility where he is currently confined. *See* 28 U.S.C. § 2242; *see*

1 **III. Dismissal without Prejudice is Appropriate**

2 This is at least the tenth habeas petition filed by Petitioner in this
 3 Court.² All of the prior petitions were facially deficient. The first four
 4 petitions were dismissed initially with leave to amend and ultimately were
 5 dismissed without prejudice for failure to prosecute and/or failure to comply
 6 with a court order because Petitioner did not file an amended petition. The
 7 next five petitions were summarily dismissed without prejudice in light of
 8 Petitioner's longstanding pattern of filing defective petitions. Given this
 9 pattern and the absence of a cognizable federal habeas claim in the instant
 10 Petition, the Court finds that affording leave to amend would be futile and
 11 dismissal without prejudice is appropriate.

12 **IV. Certificate of Appealability**

13 Pursuant to Rule 11 of the Rules Governing Section 2254 cases, the
 14 Court "must issue or deny a certificate of appealability when it enters a final
 15 order adverse to the applicant." The Court has found that the Petition should
 16 be dismissed without prejudice. For the reasons stated above, the Court
 17 concludes that Petitioner has not made a substantial showing of the denial of
 18 a constitutional right, as is required to support the issuance of a certificate of
 19 appealability. *See 28 U.S.C. § 2253(c)(2).*

22 *also Rumsfeld v. Padilla*, 542 U.S. 426, 436 (2004); Rule 2(a) of the Rules Governing
 23 Section 2254 Cases in the United States District Courts and the Advisory
 24 Committee Notes thereto. The Ninth Circuit has held that the failure to name the
 25 correct respondent destroys personal jurisdiction. *See Ortiz-Sandoval v. Gomez*, 81
 26 F.3d 891, 894 (9th Cir. 1996); *Stanley v. California Supreme Court*, 21 F.3d 359, 360
 (9th Cir. 1994).

27 ² Case No. 5:12-cv-01446-DSF-JEM; Case No. 5:17-cv-00855-DSF-JEM; Case No.
 28 5:17-cv-01105-DSF-JEM; Case No. 5:18-cv-01055-DSF-JEM; Case No. 5:19-cv-00448-
 DSF-JEM; Case No. 5:19-cv-00502-DSF-JEM; Case No. 5:19-cv-00756-DSF-JEM;
 Case No. 2:19-cv-03576-DSF-JEM; Case No. 2:19-cv-04145-DSF-JEM.

V. ORDER

Based on the foregoing, IT IS ORDERED THAT: (1) the Petition is dismissed without prejudice; and (2) a certificate of appealability is denied.

DATED: 9/15/2023

HON. DALE S. FISCHER
UNITED STATES DISTRICT JUDGE